Remarks/Arguments

Claims 1-25 are pending in the application. By this Amendment, claims 3, 13, 22, 23 and 25 are amended and claims 26-29 are added.

Applicants gratefully acknowledge the indication in the Office Action that claims 3, 13, 22 and 23 contain allowable subject matter. For the following reasons, Applicants respectfully submit that all of claims 1-25 now contain allowable subject matter.

Page 2 of the Office Action rejects claims 1, 2, 4, 6, 7, 10, 11, 12, 14, 16, 17 and 20 under 35 USC 102(b) as anticipated by US patent 6, 148,688 to Nishimaki (hereinafter "Nishimaki"). The rejection is respectfully traversed.

Claim 1 of the invention recites, inter alia, "A latchless controller... comprising... a resistive element having a first element end and a second element end, the resistive element being strategically mounted to the controller tower and the mounting bracket to provide resistance to a movement of the controller tower and a toggle effect as the controller tower is moved between the first position and the second position." The specification describes a toggle mechanism as resisting motion from a first or second position toward an intermediate position and enhancing motion toward the first or second position from the intermediate position. (See, for example, paragraph 0015, lines 4-7.) Nowhere does Nishimaki disclose or suggest that a resistive element (numbered or unnumbered) is strategically mounted to the steering post 12 and the "mounting bracket" to provide resistance to a movement of the steering post 12 and a toggle effect as the steering post is moved between the seated operating position A and the standing operating position B. Neither is such indicated in Figure 4 of Nishimaki. In fact, Nishimaki's Figure 4 indicates that the "resistive element" is not attached to the "mounting bracket as they appear to be completely separated in some positions. Nishimaki merely states that "the steering post 12 can swing back and forth with respect to its standing base end portion as a pivot to be fixed at a seated operating position A and a standing operating position B", implying that the steering post 12 must be fixed or locked in place once it reaches either position. Thus Nishimaki does not disclose every element of claim 1.

Claim 11 of the invention recites "A work vehicle... comprising... a resistive

element having a first element end and a second element end, the resistive element being strategically mounted to the controller tower to provide a toggle effect as the controller tower is moved between the first position and the second position." As indicated above with respect to claim 1, Nishimaki does not disclose or suggest a resistive element strategically mounted to the steering post 12 to provide a toggle effect as the steering post 12 is moved between the seated operating position A and the standing operating position B. Thus, Nishimaki does not disclose every element of claim 11.

As demonstrated above, Nishimaki does not disclose or suggest every element of claims 1 and 11. Further Nishimaki cannot disclose or suggest every element of claims 2, 4, 6, 7, 10, 12, 14, 16, 17 and 20 as these claims depend from claims 1 and 11 and recite additional features. It is respectfully requested that the rejection of claims 1, 2, 4, 6, 7, 10, 11, 12, 14, 16, 17 and 20 under 35 USC 102(b) as anticipated by Nishimaki be withdrawn.

Page 2 of the Office Action rejects claims 8, 9, 18, 19, 21, 24 and 25 under 35 USC 103(a) as unpatentable over US Patent 6,564,896 to Proksch et al. (hereinafter "Proksch") in view of Nishimaki. The rejection is respectfully traversed.

The Office Action, again, asserts that Nishimaki anticipates independent claims 1 and 10. The Office Action admits that Proksch does not have a resistive element strategically placed to provide a toggle effect as it is moved between two position as recited in independent claims 1 and 10; it merely uses Proksch to assert that Nishimaki's device can be used in a backhoe. As demonstrated above, Nishimaki does not disclose or suggest this feature. Thus, neither Proksch nor Nishimaki, either taken alone or combined, disclose every feature of claims 1 and 11. Therfore, Proksch and Nishimaki cannot disclose every feature of claims 8, 9 18 and 19 as these claims depend from claims 1 and 10 and recite additional features.

Claim 21 recites, inter alia, A method of positioning a controller for a work vehicle, the work vehicle having... a controller positioning system... comprising a mounting bracket... a controller tower...and a resistive element...the resistive element strategically mounted to the controller tower and the mounting bracket to provide a toggle effect as the controller tower is moved between the first position and the second position, the resistive element providing a resistance to a movement of the controller. As demonstrated above, neither proksch nor Nishimaki, alone or

combined disclose this feature. Further, claims 21 recite that the method includes "applying a directional load to the controller tower from one of thfirst controller tower position and the second tower position toward another of the first controller tower position and the second controller tower position, the directional load being sufficient to overcome the resistance of the resistive element...; and maintaining the directional load until the resistive element biases the controller tower toward the other of the first controller tower position and the second controller tower position." Certainly, neither Proksch nor Nishimaki, alone or combined, disclose this feature. Thus, Proksch and Nishimaki do not disclose every feature of claim 21. Further, Proksch and Nishimaki cannot disclose every feature of claim 24 as claim 24 depends from claim 21 and recites additional features.

Claim 25 recites "A method of positioning a controller assembly for a work vehicle, the work vehicle having...a controller positioning system comprising...a strut strategically mounted to the controller tower to provide a toggle effect as the controller tower is moved between the first position and the second position, the strut providing a resistance to a movement of the controller tower" As demonstrated above, neither Proksch nor Nishimaki, alone or combined, disclose this feature.

As demonstrated above, neither Proksch nor Nishimaki, alone or combined, disclose every feature of claims 8, 9, 18, 19, 21, 24 and 25. It is respectfully requested that the rejection of claims 8, 9, 18, 19, 21, 24 and 25 under 35 USC 103(a) as unpatentable over Proksch et al. in view of Nishimaki be withdrawn.

Page 3 of the Office Action rejects claims 5 and 15 under 35 USC 103(a) as unpatentable over Nishimaki in view of US patent 5, 862, 893 to Volpel (hereinafter "Volpel"). The rejection is respectfully traversed.

As demonstrated above, Nishimaki does not disclose a resistive element strategically mounted to provide a toggle effect as a controller tower is moved from a first position to a second position. Further, nowhere does Volpel disclose this feature. The Office Action merely indicates that Volpel shows the resistive element could be a gas filled strut. As demonstrated above, Nishimaki does not disclose a resistive element providing the toggle recited claims 1 and 11. Further, Volpel does not disclose this feature. Infact, Volpel does not appear to describe a gas filled strut but a fluid strut (see Abstract, line 1). Thus, neither Nishimaki nor Volpel, alone or combined, disclose every feature recited in claims 1 and 11. Therefore Nishimaki

and Volpel cannot disclose every feature recited in claims 5 and 15 as these claims depend from claims 1 and 11 and recite additional features.

Page 5 of the Office Action asserts that claims 3, 13, 22 and 23 would be allowable if rewritten in independent form including all of the features of the base claim and any intervening claims. Claims 26-29 are, respectively, claims 3, 13, 22 and 23 rewritten in independent form including all features of the base claims and any intervening claims. Thus, according to the Office Action, claims 26-29 are allowable.

For at least the reasons set forth above, Applicants respectfully submit that the application defines patentable subject matter. Favorable reconsideration and prompt allowance of claims 1 through 29 is respectfully solicited.

Should the Examiner believe anything further is desirable in order to place the application in even better condition for allowance, he is invited to contact Applicants' undersigned representative at the telephone number listed below.

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Respectfully,

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